

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

)
Amaury Vladimir Reyes Batista,)
)
Petitioner,)
) Civil Action
v.) No. 20-12013-PBS
)
Steven Souza, Superintendent of)
Bristol County House of)
Corrections,)
)
Respondent.)
)

MEMORANDUM AND ORDER

November 23, 2020

Saris, D.J.

The Petition for Writ of Habeas Corpus (Dkt. 1) is DENIED on the ground that that nothing in the record indicates that the Immigration Judge (IJ) failed to comply with the requirements of Brito v. Barr, 415 F. Supp. 3d 258 (D. Mass. 2019). The parties have stipulated that Petitioner is a member of the Brito class. Petitioner, whose criminal history is otherwise non-extensive, was convicted of participating in a major tax fraud conspiracy involving the loss of \$166,649.61 in government funds. This conviction is on appeal before the Second Circuit.

As required under Brito, the IJ placed the burden on the Government to prove Petitioner's danger to the community by clear and convincing evidence and to demonstrate Petitioner's

flight risk by a preponderance of the evidence. See id. at 271. Likewise, the IJ required the Government to prove that "no condition or combination of conditions will reasonably assure the alien's future appearance and the safety of the community," and the IJ considered reasonable alternatives to detention. See id. Petitioner's challenge boils down to a disagreement with how the IJ weighed the reliable evidence before him, but such arguments fall outside the scope of this Court's jurisdiction because "Congress has eliminated judicial review of discretionary custody determinations." See Pensamiento v. McDonald, 315 F. Supp. 3d 684, 688 (D. Mass. 2018) (citing 8 U.S.C. § 1226(e)). This Order is without prejudice to the Petitioner seeking relief as part of the class in Savino v. Souza, No. 20-10617-WGY (D. Mass.).

SO ORDERED.

/s/ PATTI B. SARIS
Hon. Patti B. Saris
United States District Judge